

## Amendment No. 94

Senate Amendment to Senate Bill No. 152 (BDR 57-939)

**Proposed by:** Senate Committee on Commerce, Labor and Energy**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will ADD a 2/3s majority vote requirement for final passage of S.B. 152 (§ 6 &amp; NRS 680B.010, 680C.110, 684A.130, 684A.160).

| ASSEMBLY ACTION |                          |      |                          | Initial and Date | SENATE ACTION |                          |      |                          | Initial and Date |
|-----------------|--------------------------|------|--------------------------|------------------|---------------|--------------------------|------|--------------------------|------------------|
| Adopted         | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____            | Adopted       | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____            |
| Concurred In    | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            | Concurred In  | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |
| Receded         | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            | Receded       | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

MSN/TMC



Date: 4/1/2011

S.B. No. 152—Revises provisions governing insurance adjusters. (BDR 57-939)



## SENATE BILL NO. 152—SENATOR SCHNEIDER

FEBRUARY 16, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing insurance adjusters. (BDR 57-939)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to insurance; revising provisions governing insurance adjusters; exempting certain persons from provisions of the Nevada Insurance Adjusters Law governing the licensing and regulation of adjusters; authorizing the Commissioner of Insurance to issue a license as an adjuster to a resident of Canada under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

The Nevada Insurance Adjusters Law governs the licensing of adjusters and the regulation of their conduct. (NRS 684A.010-684A.260) The Nevada Insurance Adjusters Law defines "adjuster," "independent adjuster," "public adjuster" and "associate adjuster" for purposes of the Nevada Insurance Code. (NRS 684A.020, 684A.030) The Nevada Insurance Adjusters Law is applicable only to persons who satisfy the statutory definition of adjuster, but not to persons who adjust or settle claims relating to life insurance, health insurance or annuities. (NRS 684A.010)

**Section 2** of this bill exempts certain persons from the provisions governing the licensing and regulation of adjusters by specifically providing that such persons are not considered adjusters for purposes of the Code. **Section 2** provides that the following persons are not considered adjusters: (1) ~~officers, directors or managers of an insurer;~~ (2) licensed agents who supervise certain employees of an independent adjuster or an affiliate of an independent adjuster; (3) persons employed only to collect factual information concerning a claim for coverage arising under an insurance contract; (4) persons employed only to provide technical assistance to an independent adjuster; (5) persons employed to investigate suspected fraudulent claims for coverage arising under an insurance contract but who do not adjust losses or determine the payment of claims; (6) persons who perform only executive, administrative, managerial or clerical duties, or any combination thereof, but do not investigate or settle claims for coverage arising under an insurance contract; (7) licensed health care providers or any employees thereof who provide managed care services if those services do not include the determination of compensability; (8) managed care organizations or any employees thereof or organizations that provide managed care services or any employees thereof if the services provided do not include the determination of compensability; (9) persons who settle only ~~claims for coverage for~~ reinsurance or subrogation ~~relating under an insurance contract;~~ claims; (10) brokers, agents or representatives of risk retention groups; (11) attorneys-in-fact of reciprocal insurers; and (12) managers of branch offices of alien insurers that are located in the United States ~~in~~ in.

persons who investigate, negotiate or settle claims relating to accident or disability insurance claims; and (14) salaried employees of a self-insured who adjust claims arising under insurance contracts only on behalf of the self-insured.

Section 2 of this bill revises the definition of "independent adjuster" to mean an adjuster who, for compensation as an independent contractor, enters into a contract with an insurer or a self-insurer to investigate or settle claims for the insurer or self-insurer arising under insurance contracts for property or casualty coverage or coverage that relates to a claim for workers' compensation insurance.]

Section 5 of this bill authorizes the Commissioner of Insurance to issue a license as an adjuster to a resident of Canada who is otherwise qualified for licensure and who adjusts and pays claims on business written in Nevada. Sections 6 and 7 of this bill exempt a resident of Canada from certain requirements relating to licensure as an adjuster. A resident of Canada who applies for licensure as an adjuster is required to pay certain fees for the issuance or renewal of such a license. (NRS 680B.010, 680C.110, 684A.090, 684A.130, 684A.160)

Section 6 also revises provisions concerning applications for licensure submitted by an applicant that is a firm or corporation rather than a natural person.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 684A of NRS is hereby amended by adding thereto a new section to read as follows:

*As used in this Code, "automated claims adjudication system" means a preprogrammed computer system which ~~is designed~~:*

*1. Is designed for the collection, data entry, calculation and final resolution of claims arising under an insurance contract for ~~property~~ portable electronic insurance coverage ~~or~~;*

*2. Is used by a licensed adjuster, licensed agent or person supervised by a licensed adjuster or licensed agent; and*

*3. Complies with the requirements of this Code concerning the payment of claims.*

**Sec. 2.** NRS 684A.020 is hereby amended to read as follows:

684A.020 1. ~~[As]~~ *Except as otherwise provided in subsection 2, as* used in this Code, "adjuster" means any person who, for compensation as an independent contractor or for a fee or commission, investigates and settles, and reports to his or her principal relative to, claims:

(a) Arising under insurance contracts for property, casualty or surety coverage, on behalf solely of the insurer or the insured; or

(b) Against a self-insurer who is providing similar coverage, unless the coverage provided relates to a claim for industrial insurance.

2. For the purposes of this chapter:

(a) An associate adjuster, as defined in NRS 684A.030;

(b) An attorney at law who adjusts insurance losses from time to time incidental to the practice of his or her profession;

(c) An adjuster of ocean marine losses;

~~(d) An officer, director, manager or~~ salaried employee of an insurer; ~~or~~  
(e) A salaried employee of a managing general agent maintaining an underwriting office in this state ~~or~~;

*(f) An employee of an independent adjuster or an employee of an affiliate of an independent adjuster who is one of not more than 25 such employees under the supervision of an independent adjuster or licensed agent and who:*

(1) Collects information relating to a claim for coverage arising under an insurance contract from or furnishes such information to an insured or a claimant; ~~for~~ and

(2) Conducts data entry, including, without limitation, entering data into an automated claims adjudication system;

(g) A licensed agent who supervises not more than 25 employees described in paragraph (f);

(h) A person who is employed only to collect factual information concerning a claim for coverage arising under an insurance contract;

~~(4)(i)~~ (i) A person who is employed only to provide technical assistance to an independent adjuster;

~~(4)(i)~~ (j) A person who is employed to investigate suspected fraudulent claims for coverage arising under an insurance contract but who does not adjust losses or determine the payment of claims;

~~(4)(j)~~ (k) A person who performs only executive, administrative, managerial or clerical duties, or any combination thereof, but does not investigate or settle claims for coverage arising under an insurance contract;

~~(4)(k)~~ (l) A licensed health care provider or any employee thereof who provides managed care services if those services do not include the determination of compensability;

~~(4)(l)~~ (m) A managed care organization or any employee thereof or an organization that provides managed care services or any employee thereof if the services provided do not include the determination of compensability;

~~(4)(m)~~ (n) A person who settles only ~~claims for coverage for~~ reinsurance or subrogation ~~arising under an insurance contract;~~

~~(4)(n)~~ claims;

~~(4)(o)~~ (o) A broker, agent or representative of a risk retention group;

~~(4)(p)~~ (p) An attorney-in-fact of a reciprocal insurer;

~~(4)(p)~~ or

~~(4)(q)~~ (q) A manager of a branch office of an alien insurer that is located in the United States.

~~(4)(r)~~ A person who investigates, negotiates or settles claims relating to accident or disability insurance claims; or

~~(4)(s)~~ A salaried employee of a self-insured who adjusts claims arising under insurance contracts only on behalf of the self-insured.

is not considered an adjuster.

Sec. 3. [NRS 684A.030 is hereby amended to read as follows:

~~684A.030 As used in this Code:~~

~~1. "Independent adjuster" means an adjuster [representing the interests of] who, for compensation as an independent contractor, enters into a contract with an insurer or a self-insurer [...] to investigate or settle claims for the insurer or self-insurer arising under insurance contracts for property or casualty coverage or coverage that relates to a claim for workers' compensation insurance.~~

~~2. "Public adjuster" means an adjuster employed by and representing solely the financial interests of the insured named in the policy.~~

~~3. "Associate adjuster" means an employee of an adjuster who, under the direct supervision of the adjuster, assists in the investigation and settlement of insurance losses on behalf of his or her employer.] (Deleted by amendment.)~~

Sec. 4. [NRS 684A.060 is hereby amended to read as follows:

~~684A.060 1. On behalf of, as authorized by, an insurer as to which he or she is licensed as an agent under chapter 683A of NRS, an agent [may from time to time]~~

~~(a) Except as otherwise provided in paragraph (b), may act as an adjuster without a license as an adjuster, [; but no such agent shall]~~

~~(b) Shall not act as an adjuster for an insurer with which the agent has a contract providing for compensation retrospectively contingent upon losses incurred under insurance sold or serviced by the agent.~~

~~2. No license [shall be] is required of a nonresident salaried adjuster or independent adjuster for the adjustment in this state of one or more losses arising out of a catastrophe common to all such losses where such losses are designated to be a catastrophe by responsible insurance associations or the Commissioner. (Deleted by amendment.)~~

**Sec. 5. NRS 684A.070 is hereby amended to read as follows:**

684A.070 1. For the protection of the people of this State, the Commissioner may not issue or continue any license as an adjuster except in compliance with the provisions of this chapter. Any person for whom a license is issued or continued must:

(a) Be at least 18 years of age;

(b) Except as otherwise provided in subsection 2, be a resident of this State, and have resided therein for at least 90 days before his or her application for the license;

(c) Be competent, trustworthy, financially responsible and of good reputation;

(d) Never have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(e) Have had at least 2 years' recent experience with respect to the handling of loss claims of sufficient character reasonably to enable the person to fulfill the responsibilities of an adjuster;

(f) Pass all examinations required under this chapter; and

(g) Not be concurrently licensed as a producer of insurance for property, casualty or surety or a surplus lines broker, except as a bail agent.

2. The Commissioner may waive the residency requirement set forth in paragraph (b) of subsection 1 if the applicant is:

(a) An adjuster licensed under the laws of another state who has been brought to this State by a firm or corporation with whom the adjuster is employed that is licensed as an adjuster in this State to fill a vacancy in the firm or corporation in this State;

(b) An adjuster licensed in an adjoining state whose principal place of business is located within 50 miles from the boundary of this State; ~~for~~

(c) A resident of Canada who adjusts and pays claims on business written in this State; or

(d) An adjuster who is applying for a limited license pursuant to NRS 684A.155.

3. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (d) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend, revoke or limit the license of an adjuster pursuant to NRS 684A.210.

**Sec. 6. NRS 684A.090 is hereby amended to read as follows:**

684A.090 1. The applicant for a license as an adjuster shall file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. As part of, or in connection with, the application, the applicant shall furnish information as to his or her identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably

1 required by the Commissioner to determine the applicant's eligibility and  
2 qualifications for the license.

3 2. If the applicant is a natural person ~~and~~ other than an applicant described in  
4 paragraph (c) of subsection 2 of NRS 684A.070, the application must include the  
5 social security number of the applicant.

6 3. If the applicant is a firm or corporation, the application must ~~false include~~  
7 ~~the names of all firm members, all corporate officers and directors, and shall~~  
8 designate each individual who is to exercise the license powers ~~and~~ and must  
9 include:

10 (a) The name of each member of the firm or each officer and director of the  
11 corporation;

12 (b) The name of each executive officer and director who owns more than 10  
13 percent of the outstanding voting securities of the applicant; and

14 (c) The name of any other individual who owns more than 10 percent of the  
15 outstanding voting securities of the applicant.

16 Each such member, officer, director and individual shall furnish information to  
17 the Commissioner as though applying for an individual license.

18 4. If the applicant is a nonresident of this state, the application must be  
19 accompanied by an appointment of the Commissioner as process agent and  
20 agreement to appear pursuant to NRS 684A.200.

21 5. The application must be accompanied by the applicable license fee as  
22 specified in NRS 680B.010 and, in addition to any other fee or charge, all  
23 applicable fees required pursuant to NRS 680C.110.

24 6. No applicant for such a license may willfully misrepresent or withhold any  
25 fact or information called for in the application form or in connection therewith. A  
26 violation of this subsection is a gross misdemeanor.

27 Sec. 7. NRS 684A.170 is hereby amended to read as follows:

28 684A.170 Except for an adjuster described in paragraph (c) of subsection 2  
29 of NRS 684A.070:

30 1. Every adjuster shall have and maintain in this state a place of business  
31 accessible to the public and from which the licensee principally conducts  
32 transactions under his or her license. The address of such place shall appear upon  
33 the application for a license and upon the license, when issued, and the licensee  
34 shall promptly notify the Commissioner in writing of any change thereof. Nothing  
35 in this section shall prohibit the maintenance of such place in the licensee's  
36 residence in this state.

37 2. The license of the licensee and those of associate adjusters employed by the  
38 licensee shall be conspicuously displayed in such place of business in a part thereof  
39 customarily open to the public.